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From:

Sent: Monday, January 12, 2009 11:41 AM

To:

Cc:

Subject: FW: Application of DOL Regulations 2510.3-101(h)(3)

I think this is the set of E-mails concerning the DOL plan assets regulations that you were asking about. If not let me know.

Here is your answer from
contact him by E-Mail

DOL. If you have any further questions you can
or by telephone .

and I thought that the language below from the preamble would have meant
that there was a prohibited transaction:

"The Department continues to believe that, as a general matter, where all of the outstanding equity interests in an entity are owned by a plan, there is no practical difference between the assets of the plan and the assets of the entity which is owned by the plan. The extension of the rule to entities wholly-owned by a related group of plans will assure that this rule will not be subject to manipulation, for example, by the purchase of the entire equity interest in an entity by two defined benefit plans, one of an employer and one of an affiliate of that employer. Finally, the Department has made a minor modification to the wholly-owned rule to make it clear that an entity will be considered wholly-owned by a plan even in those instances where shares are owned by other"

However, I noticed that the wholly-owned entity rule would not apply to one or more eligible individual account plans (as defined in section 407(d)(3) of ERISA.). ESOPs are listed in section 407(d)(3) of ERISA, so I suppose that excludes them from the rule.

Thanks